

IN THE SUPREME COURT OF THE STATE OF MONTANA

PR 06-0544

FILED

AUG 11 2009

IN RE PETITION FOR REINSTATEMENT TO
THE STATE BAR OF MONTANA OF
MARVIN E. "TOBY" ALBACK,

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

ORDER

an Attorney at Law.

Before this Court is a petition for reinstatement to active service filed, under oath, by Marvin E. "Toby" Alback (Alback). Alback was placed on inactive status, having failed to comply with his CLE requirements.

In his petition Alback states, again under oath, that he "has not committed any acts or omissions while not on active status which would be sanctionable under the Montana Rules of Professional Conduct." Notwithstanding, this Court is apprised of the fact that Alback has two disciplinary proceedings presently pending before the Commission on Practice, specifically Cause Nos. PR 07-0519 and PR 09-0222. Indeed, as to Cause No. PR 07-0519, this Court has entered its Order dated August 11, 2009, adopting the Commission on Practice's June 26, 2009 Findings of Fact, Conclusions of Law and Recommendation Order for discipline related to Alback's violation of various Montana Rules of Professional Conduct.

Strictly speaking, while either or both of these matters may not involve conduct "while not on active status," we deem it appropriate to require Alback to explain the pertinent details of these matters before we further consider his petition for reinstatement. Moreover, if either or both of these matters involve conduct "while not on active status," Alback shall fully explain why he made a materially false statement in his instant petition, or why he failed to file a corrected petition if proceedings before the

Commission on Practice were commenced after he filed his petition for reinstatement. Alback shall file his response to this Order within 20 days of the date hereof.

In the meantime, Alback's petition for reinstatement will be taken under advisement pending further order of this Court.

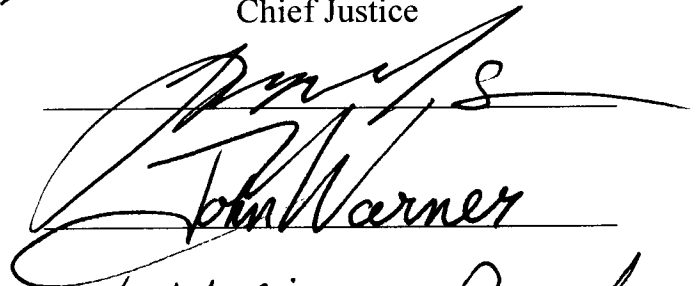
IT IS SO ORDERED.

IT IS FURTHER ORDERED that the Clerk of this Court give notice of this Order to Alback at his last known address, to Disciplinary Counsel, and to the Commission on Practice.


Dated this 11 day of August, 2009.



Chief Justice



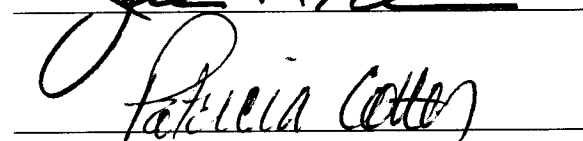
John Warner



W. William Byrd



Jim Rice



Patricia Cotton

Justices